



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2010-0566; FRL-9904-11-Region 5]

**Approval and Promulgation of Air Quality Implementation Plans;
Michigan;**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving revisions to the State of Michigan's Clean Air Act New Source Review (NSR) State Implementation Plan (SIP), including the Part 1 general provisions rules and the Part 19 rules for major sources in nonattainment areas. The Michigan Department of Environmental Quality (MDEQ) submitted the revisions to address, among other things, the Federal NSR reform rules. EPA is also removing Michigan rule 336.1220 from the Michigan SIP. This rule is being replaced by applicable language found in Michigan's Part 19 NSR rules. MDEQ submitted these revisions to EPA on March 24, 2009.

DATES: This final rule is effective on [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2010-0566. All documents in the docket are listed on the www.regulations.gov web site. Although listed in the index, some information is not publicly available,

i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 AM to 4:30 PM, Monday through Friday, excluding Federal holidays. We recommend that you telephone Constantine Blathras, Environmental Engineer, at (312) 886-0671 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Constantine Blathras, Environmental Engineer, Air Permit Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-0671, Blathras.constantine@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What Action Is EPA Taking?
- II. Statutory and Executive Order Reviews.

I. What Action Is EPA Taking?

On February 6, 2013, EPA proposed approval of MDEQ's March 24, 2009 request to revise the Part 19 rules in its SIP (78 FR 8485) and announced a thirty day public comment period. EPA received comments generally supporting the proposed approval. However, in its March 6, 2013 comment letter to EPA, MDEQ noted that the proposed approval did not address its request to rescind rule 336.1220 from its SIP.

On August 19, 2013, EPA proposed to rescind rule 226.1220 from the Michigan SIP (78 FR 50369). EPA also stated in the proposal that we would not be taking any action in this rulemaking on other Part 2 air use approval rule revisions. EPA received comments supporting the proposal to approve the Part 19 revisions and rescind rule 226.1220 from the SIP, and urging EPA to take action on the remaining Part 2 air use approval rule revisions. EPA will address Michigan's remaining Part 2 rule revisions in a separate rulemaking action.

EPA is approving the following Michigan air pollution control rules into the Michigan SIP: 1) Part 1, general provisions. Revisions include amendments to R336.1102 to R336.1105 (including R336.1103 and R.336.1104) (definitions: B, C, D, E); R336.1109 (definitions: I); R336.1112 to R336.1114 (definitions: L, M, N); and R336.1122 (definitions: V). These revisions were made to modify the definitions that impact the

new NSR permitting rules in Part 19 as well as modify the definition of volatile organic compound. 2) Part 19, NSR for major sources impacting nonattainment areas. These revisions include changes to R336.2901 (definitions); R336.2901a (adoption by reference); R336.2902 (applicability); R336.2903 (additional permit requirements for sources impacting nonattainment areas); R336.2907 (plantwide applicability limits or PALs); and R336.2908 (conditions for approval of a major new source review permit in a nonattainment area). 3) Part 2. EPA is removing rule 336.1220. Although EPA proposed on February 6, 2013 to approve other revisions to Part 2 that Michigan had submitted on March 24, 2009, EPA is not currently taking any other action regarding Michigan's Part 2 rules in this action.

EPA has reviewed the rules MDEQ submitted on March 24, 2009, in light of the Federal nonattainment air quality permitting regulations found in 40 CFR 51.165(a) and (b). EPA has found that the rules as submitted by Michigan for inclusion into its SIP are at least as stringent as the Federal rules. The Federal rules found at 40 CFR 51.165(a) and (b) specify the elements necessary for approval of a State permit program for preconstruction review for nonattainment purposes under Part D of the Clean Air Act. A major source or major modification that would be located in an area designated as nonattainment and

subject to the nonattainment area permitting rules must meet stringent conditions designed to ensure that the new source's emissions will be controlled to the greatest degree possible; that more than equivalent offsetting emission reductions will be obtained from existing sources; and that there will be progress toward achieving the National Ambient Air Quality Standards.

II. Statutory and Executive Order Reviews.

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Clean Air Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally

permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United

States Court of Appeals for the appropriate circuit by [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the Clean Air Act.)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: November 29, 2013

Susan Hedman,
Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. In § 52.1170 the table in paragraph (c) is amended by:

i. Revising the entries in "Part 1. General Provisions" for R 336.1102, R 336.1103, R 336.1104, R 336.1105, R 336.1109, R 336.1112, R 336.1113, R 336.1114, and R 336.1122.

ii. Amending "Part 2. Air Use Approval" by removing the entry for R 336.1220.

iii. Adding six new entries under a new heading "Part 19. New Source Review for Major Sources Impacting Nonattainment Areas" in numerical order.

The added and revised text reads as follows:

§ 52.1170 Identification of plan.

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(c) * * *

EPA--Approved Michigan Regulations

Michigan citation	Title	State effective date	EPA approval date	Comments
* * * * *				
Part 1. General Provisions				
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R 336.1102	Definitions; B.	3/28/2008	[INSERT DATE OF PUBLICATION IN THE	

			FEDERAL REGISTER], [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS]	
R 336.1103	Definitions; C.	3/28/2008	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS]	
R 336.1104	Definitions; D.	3/28/2008	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS]	
R 336.1105	Definitions; E.	3/28/2008	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS]	
* * * * *				
R 336.1109	Definitions: I.	3/28/2008	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS]	
R 336.1112	Definitions; L.	3/28/2008	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS]	
R 336.1113	Definitions: M.	3/28/2008	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS]	
R 336.1114	Definitions; N.	3/28/2008	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS]	
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R 336.1122	Definitions; V.	3/28/2008	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS]	
* * * * *				
Part 19. New Source Review for Major Sources Impacting Nonattainment Areas				
R 336.2901	Definitions.	6/20/2008	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS]	
R 336.2901a	Adoption by reference.	6/20/2008	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS]	
R 336.2902	Applicability.	6/20/2008	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS]	
R 336.2903	Additional permit requirements for sources impacting nonattainment areas.	6/20/2008	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS]	
R 336.2907	Plantwide applicability limits or PALs.	6/20/2008	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS]	
R 336.2908	Conditions for approval of a major new source review permit in a nonattainment area.	6/20/2008	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS]	

Date: 12/16/2013]